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Attorneys for Matthew Fritzsche

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

DIGITAL LICENSING INC. (d/b/a “DEBT Box”), a Wyoming corporation; JASON R. ANDERSON, an individual; JACOB S. ANDERSON, an individual; SCHAD E. BRANNON, an individual; ROYDON B. NELSON, an individual; JAMES E. FRANKLIN, an individual; WESTERN OIL EXPLORATION COMPANY, INC., a Nevada corporation; RYAN B OWEN, an individual; IX GLOBAL, LLC, a Utah limited liability company; JOSEPH A. MARTINEZ, an individual; BENJAMIN F. DANIELS, an individual; MARK W. SCHULER, an individual; B & B INVESTMENT GROUP, LLC (d/b/a “CORE 1 CRYPTO”), a Utah limited liability company; TRAVIS A. FLAHERTY, an individual; ALTON O. PARKER, an individual; BW HOLDINGS, LLC (d/b/a the “FAIR PROJECT”), a Utah limited liability company; BRENDAN J. STANGIS, an individual; and MATTHEW D. FRITZSCHE, an individual;

Defendants.

**DECLARATION OF ADAM L.
GRUNDTVIG IN SUPPORT OF
MATTHEW FRITZSCHE’S
PETITION FOR ATTORNEY’S FEES
PURSUANT TO THIS COURT’S
MARCH 18, 2024 MEMORANDUM
DECISION AND ORDER**

Chief Judge Robert J. Shelby

Case No. 2:23-cv-00482-RJS-DBP

Magistrate Judge Dustin B. Pead

ARCHER DRILLING, LLC, a Wyoming limited liability company; BUSINESS FUNDING SOLUTIONS, LLC, a Utah limited liability company; BLOX LENDING, LLC, a Utah limited liability company; CALMFRITZ HOLDING, LLC, a Utah limited liability company; CALMES & CO, INC., a Utah corporation; FLAHERTY ENTERPRISES, LLC, an Arizona limited liability company; IX VENTURES FZCO, a United Arab Emirates company; PURDY OIL, LLC, a Nebraska limited liability company; THE GOLD COLLECTIVE LLC, a Utah limited liability company; and UIU HOLDINGS, LLC, a Delaware limited liability company,

Relief Defendants.

I, Adam L. Grundvig, hereby declare as follows:

1. I am over 18 years of age and have personal knowledge of all facts stated herein.
2. In May 2008, I graduated from the S.J. Quinney College of Law (With Honors, receiving several awards). Later that year, I was admitted to the Utah Bar. I have worked my entire law career at Kesler & Rust, first as an associate (through 2015) then as a partner.
3. On August 2, 2023, Fritzsche engaged the undersigned counsel to represent him in this lawsuit. Fritzsche and the declarant's office have had an attorney-client relationship for several years.
4. This declaration identifies and focuses upon the attorney's fees Fritzsche incurred "arising from" (or traceable to, resulting from, originating from, growing out of, or flowing from) the SEC's seeking, obtaining, and defending the ex parte TRO, asset freeze, and appointment of a receiver, including fees incurred preparing the instant petition and the materials

that support it. Having read this Court’s March 18, 2024 memorandum decision and order, Tenth Circuit Court of Appeals decisions interpreting language like that in such decision and order, and Tenth Circuit decisions allowing recovery of fees for attorney work in seeking attorney’s fees, declarant perceives this focus to be proper.

5. This declaration excludes attorney’s fees attributable to defendants’ motions to dismiss and responses to the Securities and Exchange Commission (the “SEC”)’s response to this Court’s order to show cause. Declarant excluded such fees to comply with his understanding of this Court’s above-referenced decision and order.

6. Effective January 1, 2023, my hourly rate was \$375. Effective January 1, 2024, my hourly rate increased to \$425. Our law clerk—Audreanna Whipple—also worked on this case. Ms. Whipple (at the time, a rising third-year student at the S.J. Quinney College of Law) provided her services in 2023 when her hourly rate was \$150. Given the nature of this matter (hotly contested, multi-party litigation involving alleged violations of securities laws), Kesler & Rust’s ability to perform the necessary litigation services, and fees charged by other lawyers in the locality¹ for similar legal services (i.e., litigation), I believe these hourly rates are reasonable.

¹ In the last several years, my firm has litigated several requests for attorney fees involving a solo practitioner (information current as of 2018), lawyers of firms slightly smaller than Kesler & Rust (Crippen and Cline, information current as of 2018), and much larger firms (including Snell & Wilmer and Parsons Behle & Latimer, information current as of 2021). In those instances, I reviewed materials that reflected the attorneys’ hourly rates.

My 2023 hourly rate was the same as or lower than the solo practitioner’s 2018 hourly rate (\$375), lower than the Snell and Wilmer partners’ 2021 hourly rates (\$425 or higher), lower than three Parsons Behle partners’ 2021 hourly rates (which were \$450 or higher), and higher than one Parsons Behle partner’s 2021 rate (\$325). My 2024 hourly rate is about 13% higher than the solo practitioner’s rate from six years ago and the same as or lower than all but one of the Snell and Wilmer and Parsons Behle partners’ rates from three years ago.

7. The Exhibit “1” attached hereto is a modified history bill for this case using software.² Exhibit “1” is modified to include the fees referenced in paragraph 4 and exclude the fees referenced in paragraph 5.

8. Exhibit “1” reflects Fritzsche incurred a total of \$24,022.50 in attorney’s fees for the foregoing activities.

- a. 36.80 hours by Mr. Grundvig at \$375/hour;
- b. 23.70 hours by Mr. Grundvig at \$425/hour;
- c. 1.0 hours by Ms. Whipple at \$150/hour.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 17th day of April 2024 in Salt Lake City.

KESLER & RUST

/s/ Adam L. Grundvig

Adam L. Grundvig
Attorneys for Matthew Fritzsche

² Fritzsche does not intend to waive any evidentiary privileges by providing details of his attorney billings.

CERTIFICATE OF SERVICE

I certify that I caused to be delivered through CM/ECF filing a true and correct copy of the foregoing **DECLARATION OF ADAM L. GRUNDVIG IN SUPPORT OF MATTHEW FRITZSCHE'S PETITION FOR ATTORNEY'S FEES PURSUANT TO THIS COURT'S MARCH 18, 2024 MEMORANDUM DECISION AND ORDER** on April 17, 2024 to all counsel of record.

/s/ Cindee Elmer

EXHIBIT 1

Matt Fritzsche

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Law Office of Kesler & Rust
 McIntyre Building, 2nd Floor
 68 South Main Street
 Salt Lake City, UT 84101

Invoice submitted to:
 Matt Fritzsche

In Reference To: SEC v. FRITZSCHE
 FR361-5101

<u>Professional Services</u>			<u>Amount</u>
8/2/2023	- ALG	Correspondence (text, telephone, in-office) with Matt Fritzsche about SEC TRO/asset freeze.	750.00
	- ALG	Partially reviewed complaint/TRO/asset freeze documents; preparation of notes.	712.50
	- ALG	Email and telephonic correspondence with receiver's counsel.	75.00
8/3/2023	- ALG	Conferences with Matt about allegations and evidence about DEBT Box ecosystem.	487.50
	- ALG	Email and telephonic correspondence with receiver's counsel.	75.00
8/4/2023	- ALG	Finished reviewing litigation filings in preparation of teleconference with client; attended conference.	600.00
	- ALG	Telephone conference with receiver's counsel.	187.50
8/8/2023	- ALG	Three teleconferences with Matt about discovery, asset freeze issues, and receiver's position.	787.50
	- ALG	Telephone conference with SEC attorney about discovery and asset freeze order.	112.50
8/9/2023	- ALG	Reviewed and responded to emails from Matt about expedited discovery, reviewed email attachments.	112.50
8/16/2023	- ALG	Preparation of custom responses and objections to SEC's discovery requests, numerous correspondences (email, text, telephone) with Matt about same; preparation of documents; preparation of correspondence to SEC's counsel regarding responses.	1,612.50
8/18/2023	- ALG	Reviewed responsive discovery documents, preparation of supplemental responses to discovery, preparation of correspondence to counsel regarding same.	375.00
8/21/2023	- ALG	Reviewed and responded to receiver counsel's email (reviewed referenced order in preparation thereof).	150.00
8/22/2023	- ALG	Preparation of supplemental responses to discovery.	150.00
8/25/2023	- AW	Research on petitioning court to unfreeze assets/accounts	150.00
	- ALG	Reviewed unfreeze asset guidance from IRS and federal courts, reviewed similar correspondence from opposing counsel.	262.50

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8/30/2023	- ALG	Reviewed case law and related authority/guidances regarding lifting asset freezes to allow for payment of household expenses.	187.50
8/31/2023	- ALG	Telephone conference with Matt about litigation (unfreeze assets to pay living expenses) pursuits.	150.00
9/7/2023	- ALG	Zoom conference with Matt/Andrea/Rich Cook about unfreeze assets options & obstacles.	375.00
9/12/2023	- ALG	Reviewed several TRO-related court filings, including potential piggyback motion to dissolve TRO and appoint a new receiver; reviewed correspondence from client about same, prepared substantial response.	450.00
	- ALG	Preparation of correspondence to the SEC litigation counsel regarding unfreeze assets, sealed assets, and going concern employment access.	75.00
9/13/2023	- ALG	Correspondence with opposing counsel regarding asset report stipulation; preparation of stipulation and order regarding filing asset report under seal.	112.50
	- ALG	Correspondence with opposing counsel regarding asset unfreeze stipulation and order; reviewed and modified draft of stipulation and order.	187.50
9/14/2023	- ALG	Reviewed correspondence from court about asset accounting filing, revised filing.	75.00
9/15/2023	- ALG	Preparation for and attendance at today's status conference about TRO and receivership motions and issues, preparation of notes, Telephone conference with Matt regarding adjustments to plan.	750.00
	- ALG	Reviewed recent TRO dissolution filings by non-fraud defendants, preparation of notes.	337.50
	- ALG	Correspondence with opposing counsel about pending TRO and asset freeze items.	75.00
9/18/2023	- ALG	Correspondence with opposing counsel about discovery, unfreeze motion, and TRO related court conferences; correspondence with client about court hearings, preparation for and attendance at today's TRO & receiver-related hearing; preparation of notes.	600.00
9/19/2023	- ALG	Correspondence (telephone and email) with opposing counsel regarding living expenses motion and order; preparation of joinders to motions to dissolve the TRO.	487.50
9/20/2023	- ALG	Correspondence with opposing counsel and client about asset unfreeze stip/order; correspondence with coordinating counsel about today's TRO & receiver-related hearing; revised and finalized joinder motion regarding dissolution of the TRO.	487.50
9/21/2023	- ALG	Reviewed today's filings, including interim receiver report; correspondence with coordinating counsel about today's TRO & receiver-related hearing; correspondence with opposing counsel about issuance of first personal expenses payment to client.	525.00
9/22/2023	- ALG	Reviewed and responded to correspondence from the SEC about unfreeze payments, correspondence (written and telephonic with Utah First regarding same).	300.00
	- ALG	Reviewed and responded to court correspondence about today's scheduled hearing about TRO and receiver issues.	37.50
9/25/2023	- ALG	Reviewed correspondence and filings regarding dissolution of TRO.	150.00

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9/29/2023	- ALG	Reviewed correspondence from Jeana Jensen of Utah First regarding living expenses order; Telephone conference with client regarding same.	150.00
10/6/2023	- ALG	Attended today's hearing about motions to dissolve the TRO.	487.50
10/10/2023	- ALG	Zoom and other correspondence with non-fraud defendants about transition from receiver to no receiver.	187.50
10/11/2023	- ALG	Correspondence with Anderson counsel about their receiver proposal.	75.00
10/12/2023	- ALG	Reviewed dissolution correspondence (with attachments) from Gottlieb counsel, preparation of reply.	75.00
10/16/2023	- ALG	Reviewed receivership transition report filings.	37.50
	- ALG	Reviewed correspondence from court about forthcoming Preliminary injunction hearing.	37.50
11/30/2023	- ALG	Reviewed court's memorandum and ruling and separate order to show cause.	187.50
12/1/2023	- ALG	Preparation to client about court's memorandum and ruling about TRO/injunction filings.	150.00
12/6/2023	- ALG	Correspondence with opposing counsel about TRO-related Order to show cause Motion.	75.00
12/18/2023	- ALG	Correspondence with SEC about order to show cause response.	37.50
12/21/2023	- ALG	Reviewed and responded to SEC counsel correspondence about TRO-related order to show cause.	37.50
12/22/2023	- ALG	Correspondence with friendly counsel about SEC response to Order to show cause, reviewed response, reviewed and responded to client emails about same.	375.00
12/27/2023	- ALG	Reviewed and responded to Order to show cause-related correspondence.	75.00
1/4/2024	- ALG	Reviewed iX Global parties' draft response to SEC's Order to show cause for incorporation purposes, preparation of notes, partial preparation of reply to order to show cause.	425.00
1/8/2024	- ALG	Continued work on Order to show cause Response incorporation filings.	425.00
1/9/2024	- ALG	Reviewed friendly counsel draft response to SEC response to Order to show cause; continued preparation of client declaration and client's response, preparation of correspondence to client regarding effort.	1,020.00
1/10/2024	- ALG	Reviewed and responded to emails from Matt, preparation of revisions to his declaration, reviewed correspondence from friendly counsel about response to Order to show cause tactics.	467.50
1/11/2024	- ALG	Conferences (email, text, telephone) with Matt about his declaration and response to SEC's response to Order to show cause.	722.50
1/12/2024	- ALG	Reviewed correspondence from friendly counsel about today's TRO-related order to show cause filings.	85.00
1/16/2024	- ALG	Reviewed and responded to correspondence about joinder in Order to show cause response and SEC surreply.	127.50

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1/30/2024 -	ALG	Teleconferences with Matt about SEC's intent to dismiss the complaint without prejudice; reviewed and responded to email correspondence from non-fraud counsel about same.	467.50
1/31/2024 -	ALG	Reviewed and responded to correspondence from client about response to SEC dismissal without prejudice proposal; Telephone conference with opposing counsel regarding same; reviewed MTD filed by SEC.	425.00
2/1/2024 -	ALG	Telephone conference with NY friendly counsel about sanction options.	425.00
2/2/2024 -	ALG	Telephone conference with Matt about SEC's motion to dismiss.	127.50
2/14/2024 -	ALG	Reviewed Debt Box Defendants' opposition to SEC's motion to dismiss without prejudice; preparation of client's opposition.	340.00
3/18/2024 -	ALG	Reviewed court order on Order to show cause and MTD; preparation of notes.	212.50
3/19/2024 -	ALG	Further reviewed the court's recent memorandum decision and order for instructions on how to prepare the referenced petition, partial preparation of the petition.	340.00
3/26/2024 -	ALG	Correspondence with friendly counsel about petition for attorney fees and costs.	85.00
4/1/2024 -	ALG	Partial review of file documents in preparation of petition for receiver/TRO-related attorney fees and costs.	212.50
4/3/2024 -	ALG	Strategy review of file documents in preparation of attorney fee petition; Partial preparation of support for same.	467.50
4/4/2024 -	ALG	Continued preparation of documents in support of attorney fee petition.	425.00
4/5/2024 -	ALG	Continued preparation of petition for attorney's fees (focusing on billing support and research on "arising out of" language).	552.50
4/9/2024 -	ALG	Continued preparation of motion for attorney's fees; researched "fees and fees" law for inclusion in motion; preparation of additions to Grundvig Declaration and exhibit thereto.	722.50
4/12/2024 -	ALG	Finished preparation of motion for attorney's fees, added content to supporting declaration and exhibit thereto.	1,445.00
4/16/2024 -	ALG	Revised and finalized motion for attorney fees, Grundvig declaration, and Exhibit 1.	552.50

SUBTOTAL:

[24,022.50]

For professional services rendered

Hours

61.50

\$24,022.50